

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JANE DOE,)	
)	Civil Action
Plaintiff)	No. 12-cv-06898
)	
vs.)	
)	
BOYERTOWN AREA SCHOOL DISTRICT;)	
MARK E. MacLELLAN;)	
HARRY W. MORGAN;)	
DANIEL F. GOFFREDO;)	
DION E. BETTS;)	
BRETT A. COOPER; and)	
ROBERT S. HAYMAN,)	
)	
Defendants)	

O R D E R

NOW, this 28th day of March, 2014 upon consideration of
the following documents:

- (1) Motion to Dismiss Pursuant to Fed.R.Civ.P. 12(b)(6)
of Defendants Boyertown Area School District, Harry
W. Morgan, Daniel F. Goffredo, Dion E. Betts, Brett
A. Cooper, and Robert S. Hayman, which motion was
filed July 15, 2013 (Document 24) ("School District
Defendants' Motion to Dismiss");

Plaintiff's Response to Motion to Dismiss
Pursuant to Fed.R.Civ.P. 12(b)(6) of
Defendants Boyertown Area School District,
Harry W. Morgan, Daniel F. Goffredo, Dion E.
Betts, Brett A. Cooper and Robert S. Hayman,
which response was filed July 29, 2013
(Document 25);

Reply Brief of Defendants Boyertown Area
School District, Harry W. Morgan, Daniel F.
Goffredo, Dion E. Betts, Brett A. Cooper, and
Robert S. Hayman to Plaintiff's Response to
Defendants' Motion to Dismiss Pursuant to
Federal Rule of Civil Procedure 12(b)(6),
which reply brief was filed August 27, 2013
(Document 33);

Plaintiff's Surreply Brief to the Reply Brief of Defendants Boyertown Area School District, Harry W. Morgan, Daniel F. Goffredo, Dion E. Betts, Brett A. Cooper and Robert S. Hayman to Plaintiff's Response to Defendants' Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6), which surreply brief was filed August 30, 2013 (Document 36);

- (2) Motion to Dismiss Counts II, IV, V, and VI of Plaintiff's Amended Complaint Pursuant to Fed.R.Civ.P. 12(b)(6) of Defendant Mark E. MacLellan, which motion was filed July 30, 2013 (Document 26) ("MacLellan's Motion to Dismiss"); and

Plaintiff's Response to Motion to Dismiss Counts II, IV, V and VI of Plaintiff's Amended Complaint Pursuant to Fed.R.Civ.P. 12(b)(6) of Defendant Mark E. MacLellan, which response in opposition was filed August 9, 2013 (Document 27);

- (4) Amended Civil Action Complaint, filed April 26, 2013 (Document 13);

and for the reasons expressed in the accompanying Opinion,

IT IS ORDERED that the School District Defendants' Motion to Dismiss is granted in part and denied in part.

IT IS FURTHER ORDERED that the School District Defendant's Motion to Dismiss is granted to the extent that it seeks to dismiss plaintiff's Section 1983 claim¹ for a violation of the Fourth Amendment; plaintiff's Section 1983 claim for a violation of the Fourteenth Amendment for failure to train;

¹ Section 1983 of the Civil Rights Act of 1964, 42 U.S.C. § 1983.

plaintiff's Title IX claim² against defendants Morgan, Goffredo, Betts, Cooper, and Hayman; and plaintiff's claim for a violation of Article I, Section 8 of the Pennsylvania Constitution.

IT IS FURTHER ORDERED that plaintiff's Section 1983 claim for a violation of the Fourth Amendment; plaintiff's Section 1983 claim for a violation of the Fourteenth Amendment for failure to train; plaintiff's Title IX claim against defendants Morgan, Goffredo, Betts, Cooper, and Hayman; and plaintiff's claim for a violation of Article I, Section 8 of the Pennsylvania Constitution are dismissed from the Amended Civil Action Complaint.

IT IS FURTHER ORDERED that the School District Defendants' Motion to Dismiss is denied to the extent that it seeks to dismiss plaintiff's Section 1983 claim for a violation of the Fourteenth Amendment for deliberate indifference and plaintiff's Title IX claim against Boyertown Area School District.

IT IS FURTHER ORDERED that MacLellan's Motion to Dismiss is dismissed as untimely.

IT IS FURTHER ORDERED that defendants Boyertown Area School District, Morgan, Goffredo, Betts, Cooper, and Hayman shall have until April 22, 2014 to file an answer to the remaining claims in plaintiff's Amended Civil Action Complaint.

² Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688 ("Title IX").

IT IS FURTHER ORDERED that plaintiff shall have until April 22, 2014 to amend her Amended Civil Action Complaint to more specifically aver her claims for (A) violation of her rights under the Fourth Amendment to the United States Constitution; (B) violation of her rights under the Fourteenth Amendment to the United States Constitution for failure to train; and (C) violation of her rights under the Pennsylvania Constitution Article I, Section 8; each consistent with the Opinion accompanying this Order.

BY THE COURT:

/s/ JAMES KNOLL GARDNER
James Knoll Gardner
United States District Judge